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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
VANTERPOOL, LESTER L	

ART UNIT	PAPER NUMBER
3782	

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

Office Action Summary	Application No.	Applicant(s)	
	10/791,429	FIN, ENRICO	
	Examiner	Art Unit	
	Lester L. Vanterpool	3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1, 3-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 3 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Won et al., (U.S. Patent Number 6029873). Won et al., discloses the plurality of recesses (16 & 17) within the roof surface (12) (See Figure 1); the plurality of rack elements (28, 30, 80 & 82) movable between the stowed position (See Figures 4 & 6) where at least the portion of each of the plurality of rack elements (28, 30, 80 & 82) is received within the plurality of recesses (16 & 17) (See Figures 1 & 4) such that the plurality of rack elements (28, 30, 80 & 82) and the roof surface (12) comprises the continuous uninterrupted surface (See Figures 1, 6 & 7).

However, Won et al., does not disclose the deployed position where the plurality of rack elements are spaced away from the roof surface.

Foster et al., teaches the deployed position (See Figures 7 & 10) where the plurality of rack elements (16, 18, 20 & 22) are spaced away from the roof surface (12) (See Figures 1, 5, 7 & 10) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the deployed position where the plurality of rack elements are spaced away from the roof surface as taught by Foster et al., with the roof rack assembly for a vehicle of Won et al., in order to enhance multi-functional capabilities.

Regarding claim 3, Won et al., discloses the plurality of recesses (16 & 17) (See Figure 1) is formed as the continuous portion of the roof surface (12)(See Figure 1).

However, Won et al., does not disclose each recess being defined by surfaces that are non-perpendicular to the plane defined by the roof surface.

It would have been a matter of design choice to make each recess being defined by surfaces that are non-perpendicular to the plane defined by the roof surface, since applicant has not disclosed that each recess being defined by surfaces that are non-perpendicular to the plane defined by the roof surface solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with recess being defined by surfaces that are perpendicular to the plane defined by the roof surface.

Regarding claim 4, Won et al., further discloses at least the portion of each of the plurality of recesses (16 & 17) is disposed below the plane (12) (See Figures 4 – 7).

Regarding claim 5, Won et al., further discloses the plurality of rack elements (28, 30, 80 & 82) (See Figure 1) are stowable at least partially within the plurality of recesses

(16 & 17) (See Figures 4 & 6) when in the stowed position such that the portion of each of the plurality of rack elements (28, 30, 80 & 82) is disposed above the plane (12) (See Figures 1, 2, 4 & 6).

However, Won et al., does not disclose the rack elements disposed above the plane.

Foster et al., teaches the rack elements (16, 18, 20 & 22) is disposed above the plane (12) (See Figure 6) for the purpose of providing sleek design and consumer appeal.

It would have been obvious to one having ordinary skill in the art the time the invention was made to make the rack elements disposed above the plane as taught by Foster et al., with the roof rack assembly for a vehicle of Won et al., in order to enhance appearance appeal.

Regarding claim 6, Won et al., discloses the portion of the pluralitv of rack elements (28, 30, 80 & 82).

However, Won et al., does not disclose the rack elements comprising portion of the continuous uninterrupted surface.

Foster et al., teaches the portion of the rack elements (16, 18, 20 & 22) comprising portion of continuous uninterrupted surface (See Figure 7) for the purpose of appearance appeal.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rack element comprising portion of the continuous

uninterrupted surface as taught by Foster et al., with the roof rack assembly for a vehicle of Won et al., in order to enhance appearance appeal.

Regarding claim 7, Won et al., discloses the invention substantially as claimed. Won et al., discloses each of the plurality of rack elements (28, 30, 80 & 82).

However, Won et al., does not disclose the rack elements comprising the generally oval shape.

Foster et al., teaches the rack elements (16, 18, 20 & 22) comprises the generally oval shape (See Figures 3 – 7) for the purpose of appearance appeal.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rack elements comprising the generally oval shape as taught by Foster et al., with the roof rack assembly for a vehicle of Won et al., in order to enhance appearance appeal.

Regarding claim 8, Won et al., discloses the plurality of rack elements (28, 30, 80 & 82) comprise of lateral (80 & 82) and longitudinal elements (28 & 30) (See Figures 1 & 2).

Regarding claim 9, Won et al., further discloses the drive (40) and the plurality of supports driven (38, 42, 44, 60, 62 & 64) by the drive (40) (See Figures 3 – 5) and attached to the plurality of rack elements (28, 30, 80 & 82) to move the plurality of rack elements (28, 30, 80 & 82) between the stowed position (See Figures 4 & 6) and the

deployod position (See Figures 5 & 7) (See Column 2, lines 45 – 63) (See Figures 3 – 5).

Regarding claim 10, Won et al., discloses the roof surface (12) (See Figures 1 & 2) that defines plane (12) and the plurality of recesses (16 & 17) disposed below the plane (12) (See Figures 4 – 7) and the corresponding pluratity of rack elements (28, 30, 80 & 82) that are movable between the stowed position (See Figures 4 & 6) wherein the plurality of rack elements (28, 30, 80 & 82) are at least partially received within the plurality of recesses (16 & 17) (See Figures 1, 2, 4 & 6).

However, Won et al., does not disclose each of the plurality of recesses being defined by the surfaces that are non-perpendicular to the plane and the deployed position where the plurality of rack elements are spaced apart from the roof surface.

Foster teaches It would have been a matter of design choice to make each of the plurality of recesses being defined by surfaces that are non-perpendicular to the plane, since applicant has not disclosed that each of the plurality of recesses being defined by surfaces that are non-perpendicular to the plane solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with recess being defined by surfaces that are perpendicular to the plane.

Foster et al., teaches the roof surface (12) comprises the continuous uninterrupted surface (See Figures 1 – 2), and the deployed position (See Figures 7 & 10) where the plurality of rack elements (16, 18, 20 & 22) are spaced apart from the roof

surface (12) (See Figures 1, 5, 7 & 10) for the purpose of providing multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the deployed position where the plurality of rack elements are spaced apart from the roof surface as taught by Foster et al., with the roof rack assembly for a vehicle of Won et al., in order to enhance multi-functional capabilities.

Regarding claim 11, Won et al., discloses the portion of each of the plurality of rack elements (28, 30, 80 & 82) is received within the corresponding one of the of recesses (16 & 17) (See Figures 1, 2, 3 – 7).

However, Won et al., does not disclose another portion of each of the plurality of rack elements is disposed at least partially above the plane when in the stowed position.

Foster et al., teaches another portion of the each of the plurality of rack elements (16, 18, 20 & 22) is disposed at least partially above the plane (12) when in the stowed position (See Figure 6) for the purpose of providing sleek design and consumer appeal.

It would have been obvious to one having ordinary skill in the art the time the invention was made to make another portion of each of the plurality of rack elements is disposed above the plane as taught by Foster et al., with the roof rack assembly for a vehicle of Won et al., in order to enhance appearance appeal.

Regarding claim 12, Won et al., discloses the portion of each of the plurality of recesses (16 & 17) below the plane (12) (See Figures 1, 4 – 7) comprises the uninterrupted transition with the roof surface (12) (See Figures 1, 4 – 7).

Regarding claim 13, Won et al., discloses each of the plurality of rack elements (28, 30, 80 & 82) form the portion of the roof surface (12) (See Figure 2, 4 & 6).

Regarding claim 14, Won et al., discloses the plurality of rack elements (28, 30, 80 & 82) comprise longitudinal (28 & 30) and lateral (80 & 82) members.

Regarding claim 15, Won et al., discloses the drive (40) (See Figures 3 – 5) and the plurality of supports (38, 42, 44, 60, 62 & 64) driven by the drive (40) and attached to at least some of the plurality of rack elements (28, 30, 80 & 82) to move the plurality of rack elements (28, 30, 80 & 82) between the stowed position (See Figures 4 & 6) the deployed position (See Figures 5 & 7) (See Column 2, lines 45 – 63) (See Figures 3 – 5).

Regarding claim 16, Won et al., discloses the invention substantially as claimed. However, Won et al., does not disclose each of the plurality of rack elements comprises the oval cross-section, and wherein each of the plurality of recesses comprises the shape corresponding to the plurality of rack elements.

Foster et al., teaches each of the plurality of rack elements (16, 18, 20 & 22) comprises the oval cross-section (See Figures 3 – 7), and wherein each of the plurality of recesses comprises the shape corresponding to the plurality of rack elements (16, 18, 20 & 22) (See Figure 6) for the purpose of providing complementary support base cradle.

It would have been obvious to one having ordinary skill in art at the at the time the time the invention was made to make each of the plurality of rack elements comprises the oval cross-section, and wherein each of the plurality of recesses comprises the shape corresponding to the plurality of rack elements as taught by Foster et al., with the roof rack assembly for a vehicle of Won et al., in order to enhance complementary support base cradle.

Regarding claim 17, Won et al., discloses the plurality of rack elements (28, 30, 80 & 82) movable between the stowed position (See Figures 4 & 6) where at least the portion of each of the plurality of rack elements (28, 30, 80 & 82) are disposed below the vehicle roof (12) (See Figures 4 & 6) such that each of the plurality of rack elements (28, 30, 80 & 82) and the vehicle roof (12) comprise the continuous uninterrupted exterior surface.

However, Won et al., does not disclose the deployed position where the plurality of rack elements are spaced apart from the vehicle roof and each of the plurality of rack elements comprises the substantially oval cross-section.

Foster et al., teaches the deployed position where the plurality of rack elements (16, 18, 20 & 22) are spaced apart from the vehicle roof (12) (See Figures 5 & 7) and each of the plurality of rack elements (16, 18, 20 & 22) comprises the substantially oval cross-section (See Figures 3 – 7) for the purpose of providing product appeal.

It would have been obvious to one having ordinary skill in art at the at the time the time the invention was made to make the deployed position where the plurality of rack elements are spaced apart from the vehicle roof and each of the plurality of rack elements comprises the substantially oval cross-section as taught by Foster et al., with the roof rack assembly for a vehicle of Won et al., in order to enhance product appeal.

Regarding claim 18, Won et al., discloses the electric motor (40 (See Figures 3 – 5) (See Column 2, lines 47 – 48) and the plurality of supports driven (38, 42, 44, 60, 62 & 64) by the electric motor (40) and attached to at least some of the plurality of rack elements (28, 30, 80 & 82) to drive the plurality of rack elements (28, 30, 80 & 82) between the stowed position (See Figures 4 & 6) and the deployed position (See Figures 5 & 7) (See Column 2, lines 45 – 63) (See Figures 3 – 5).

Response to Arguments

3. Applicant's arguments with respect to claims 1, 3 – 18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue

requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JES F. PASCUA
PRIMARY EXAMINER

LLV